

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT ANTHONY SMITH-BEY,

Petitioner,

Civil Action No. 22-CV-10301

vs.

HON. BERNARD A. FRIEDMAN

FREDEANE ARTIS, et al.,

Respondents.

**ORDER TRANSFERRING CASE TO THE UNITED STATES
DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN**

Petitioner Robert Anthony Smith-Bey, an inmate at the Earnest C. Brooks Correctional Facility in Muskegon Heights, Michigan, has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and an emergency motion for a temporary restraining order. Petitioner was convicted by a Wayne County jury of first-degree home invasion, four counts of assault with intent to commit murder, unlawful imprisonment, assault with intent to commit great bodily harm less than murder, two counts of felon in possession of a firearm, two counts of carrying a weapon with unlawful intent, discharge of a firearm from a vehicle, and two counts of felony firearm. In 2013, petitioner was sentenced to lengthy prison terms for these offenses.

In the instant petition, Smith-Bey does not challenge the constitutionality of his convictions or sentences. Rather, he seeks temporary release from custody due to the health risks presented by the COVID-19 pandemic, particularly in light of the congregant living conditions in prison. Petitioner states that he is thirty-nine years old and suffers from hypertension, high cholesterol, obesity, and asthma – conditions that may increase the risk of contracting the more severe symptoms associated with COVID-19. He also raises various concerns regarding the

availability and effectiveness of safety precautions at his facility.

Petitioner previously filed a similar § 2241 habeas petition with this Court, which was transferred to the Southern Division of the United States District Court for the Western District of Michigan on venue grounds. *See Smith-Bey v. Jackson*, No. 20-CV-12965, 2020 WL 7042998 (E.D. Mich. Dec. 1, 2020) (Leitman, J.). The case was subsequently dismissed without prejudice because petitioner had failed to exhaust his state remedies. *See Smith v. Jackson*, No. 1:20-CV-1160, 2020 WL 7237278, at *3 (W.D. Mich. Dec. 9, 2020).

As Judge Leitman stated in his order transferring Smith-Bey's prior § 2241 habeas petition:

The Court concludes that the proper exercise of its discretion under Section 2241(d) is to transfer this action to the United States District Court for the Western District of Michigan. Smith-Bey is incarcerated in that judicial district. And he is challenging his conditions of confinement at a facility in that district. In addition, the proper Respondent to this action – the warden of the facility where [Smith-Bey] is being held – is also located in the Western District. Thus, the most appropriate venue for Smith-Bey's petition is the United States District Court for the Western District of Michigan.

Smith-Bey, 2020 WL 7042998, at *1 (internal quotation marks and citation omitted). The Court concludes that for these same reasons, the instant petition is more appropriately addressed in the United States District Court for the Western District of Michigan. Accordingly,

IT IS ORDERED that the Clerk of Court transfer this case to the United States District Court for the Western District of Michigan.

Dated: February 22, 2022
Detroit, Michigan

s/Bernard A. Friedman
BERNARD A. FRIEDMAN
SENIOR UNITED STATES DISTRICT JUDGE